IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

RONALD ALLEN SMITH,

          Plaintiff,   Civ. No. 12-390-CL

                              TEMPORARY RESTRAINING ORDER

    v.

BANK OF AMERICA, N.A. and
RECONTRUST COMPANY, N.A.,

          Defendants.

PANNER, J.

    Plaintiff seeks an ex parte temporary restraining order to enjoin the foreclosure sale of his house. Plaintiff alleges the house is scheduled for a foreclosure sale on March 12, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Amongst other arguments, plaintiff alleges defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, *3 (D. Or. May 25) (internal

1 - ORDER

citation omitted; <u>In re McCoy</u>, 2011 WL 477820, at *3-4 (Bankr. D. Or. Feb. 7)); <u>James v. Recontrust Co., et al</u>, 2012 WL 653871, at *19-20 (D. Or.). Plaintiff alleges MERS is listed as the beneficiary on the deed of trust at issue.

Because of the alleged imminent foreclosure sale, and because the presence of MERS demonstrates a high probability that defendants did not comply with the recording requirements of the Oregon Trust Deed Act, I grant plaintiff's request for a temporary restraining order (#3). Defendants, and their officers, agents, etc..., and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 1650 Pinecrest Drive, Grants Pass, Oregon, from this day until Wednesday, March 21, 2012, at 5:00 p.m. This court will hold a hearing on whether to issue a preliminary injunction at 10:00 a.m. on March 21, 2012, in the James A. Redden Courthouse in Medford.

IT IS SO ORDERED.

DATED this ___7___ day of March, 2012 at *12:00* o'clock *noon*

OWEN M. PANNER
U.S. DISTRICT JUDGE

2 - ORDER